

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

In re:

MIDNIGHT MADNESS DISTILLING LLC,

Debtor.

CHAPTER 11

CASE NO. 21-11750 (MDC)

**APPLICATION OF DEBTOR TO EMPLOY WHISMAN GIORDANO & ASSOCIATES,
LLC AS ACCOUNTANT PURSUANT TO 11 U.S.C. §§ 327(c) AND 328
AND FED. R. BANKR. P. 2014**

Midnight Madness Distilling, LLC (the “Debtor”, by and through its undersigned counsel, hereby files this Application (the “Application”) for entry of an Order, pursuant to 11 U.S.C. Sections 327 and 328 and Fed. R. Bankr. P. 2014, authorizing the employment of Whisman Giordano & Associates, LLC (“Whisman Giordano”) as accountant, effective as of the date of this application, and respectfully represents as follows:

JURISDICTION

1. The Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (F) and (O).
2. Venue of this proceeding is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The statutory predicate for the relief sought herein is 11 U.S.C. §327.

BACKGROUND

4. On June 21, 2021 (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code (the “Chapter 7 Case”).

5. By this Application, the Debtor seeks to employ Whisman Giordano as accountant to assist the Debtor with non-bankruptcy accounting work.

6. Whisman Giordano has considerable experience in providing these services, and the Debtor believes that it is well qualified to perform the necessary services.

COMPENSATION STRUCTURE

7. Subject to the approval of this Court, Whisman Giordano will charge the Debtor for its services on an hourly basis in accordance with its ordinary and customary rates, which are in effect on the date the services are rendered, subject to periodic adjustment. Whisman Giordano's compensation will be subject to further application and approval by the Court.

LEGAL AUTHORITY

8. Based upon the Debtor's view and the structure of this transaction, the Debtor submits that the proposed employment as special counsel compensation to Whisman Giordano is reasonable and appropriate.

9. Section 327(a) of the Bankruptcy Code provides, in relevant part, as follows:

Except as otherwise provided in this section, the trustee, with the court's approval, may employ one or more attorneys, accountants, appraisers, auctioneers, or other professional persons, that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist the trustee in carrying out the trustee's duties under this title.

11 U.S.C. § 327(a).

10. Section 328(a) of the Bankruptcy Code provides, in relevant part, as follows:

The trustee . . . with the court's approval, may employ or authorize the employment of a professional person under section 327 . . . on any reasonable terms and conditions of employment, including on a retainer, on an hourly basis, or on a contingent fee basis.

11 U.S.C. § 328(a).

11. Accordingly, this Court is authorized to grant the relief requested in this Application.

NO ADVERSE INTEREST, DISINTERESTEDNESS

12. Whisman Giordano is a “disinterested person” as defined by section 101(14), and used in Section 327(c) of the Bankruptcy Code. As set forth in the Verified Statement of Joseph V. Giordano attached hereto as Exhibit “A” (the “Giordano Verification”), Whisman Giordano has informed the Debtor that it holds no adverse interest to the Debtor or the estate and has no connection to the Debtor’s creditors, the Debtor, or other parties-in-interest related to the Debtor that would prevent Whisman Giordano from being appointed as provided herein.

NOTICE

13. Notice of this Application has been provided to: (a) United States Trustee for the Eastern District of Pennsylvania; (b) counsel for the Buyer; (c) counsel to PNC Bank, N.A.; and (d) all parties requesting notice pursuant to Fed. R. Bankr. P. 2002. In light of the nature of the relief requested herein, the Debtor submits that no other or further notice is necessary.

NO PRIOR REQUEST

14. No prior request for the relief sought in this Application has been made to this or any other court.

WHEREFORE, the Debtor respectfully requests an order in the form attached: (i) authorizing the Debtor's retention of Whisman Giordano as accountant as of the date of this Application; and (ii) granting such other relief as the Court deems appropriate.

Dated: August 26, 2021

FLASTER/GREENBERG P.C.

By: /s/ William J. Burnett

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